

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2008CF3164
)
ALMA ROSA MANCILLAS,)	ALS NO.: 09-0389
)
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee Freeman and Yonnie Stroger, presiding, upon Alma Rosa Mancillas's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2008CF3164; and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioner's Request and supporting materials, and the Respondent's response to the Petitioner's Request; and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Department's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On January 22, 2008, the Petitioner filed an unperfected charge of discrimination with the Respondent, which she perfected on May 17, 2008. The Petitioner alleged Grupo Antolin Illinois, Inc. ("Employer") discharged her because of her ancestry, Hispanic, in violation of Section 2-102(A) of the Illinois Human Rights Act (the "Act").
2. On July 8, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On July 18, 2009, the Petitioner filed a timely Request.
3. The Employer is a supplier of automotive parts including headliner systems, exhaust systems and car doors.
4. On July 16, 2006, the Employer hired the Petitioner as a car-door assembler.
5. The Employer has in place a progressive discipline policy which includes verbal warnings, written warnings, suspensions, and finally discharge from employment.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

6. It is uncontested that beginning in September 2006, the Petitioner was disciplined by the Employer for various work errors. Specifically, the Petitioner was issued verbal warnings on September 8, 2006, and on December 14, 2006, for errors in assembling car parts.
7. On March 5, 2007, the Petitioner was issued a written warning for an assembly error.
8. On March 19, 2007, the Petitioner was issued a written warning and a two-day suspension for committing an error that cost the Employer \$ 20,350.00. The Petitioner was advised that if there were any repeated violations, she would be terminated.
9. Finally, on October 30, 2007, the Petitioner was issued a written reprimand by her supervisor for an assembly error and for using improper language in the workplace.
10. Thereafter, Erin Hardman, the Employer's human resources generalist, ordered an investigation. Hardman determined that the Petitioner had been responsible for the assembly error. After reviewing the Petitioner's prior disciplinary history, Hardman determined that termination was appropriate discipline. Hardman's decision to discharge the Petitioner was approved by the Employer's plant manager.
11. The Petitioner was discharged on November 5, 2007, for poor work performance.
12. In her charge and her Request, the Petitioner argues she was discharged because she is of Hispanic ancestry.
13. The Commission's review of the investigation file leads it to conclude the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence.

The Petitioner alleges similarly situated non-Hispanics were not discharged under similar circumstances. However, the Petitioner has failed to present any evidence to support this allegation. There is no evidence in the file that the Employer treated similarly situated non-Hispanic employees more favorably under similar circumstances.

Even assuming the Petitioner could establish a *prima facie* case of discrimination, the Employer offered a legitimate, non-discriminatory reason for its actions, and there is no evidence in the record that this stated reason was a pretext for discrimination. "In the absence of any evidence that the business consideration relied upon by a Respondent is a pretext for discrimination, it is improper to substitute judgment for the business judgment of the employer." See Berry and State of Illinois, Respondent of Mental Health and Development Disabilities, Charge No. 1994SA0240 (December 10, 1997).

In this case, the file contains undisputed evidence that the Petitioner had been progressively disciplined for numerous errors before she was finally discharged. There is no evidence the Employer was motivated by discriminatory animus.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Grupo Antolin Illinois, Inc. as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS

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Entered this 13th day of January 2010.

Commissioner David Chang

Commissioner Marylee Freeman

Commissioner Yonnie Stroger